

# **STOKES ENVIRONMENTAL ASSOCIATES, LTD**

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28 May 2004

Jeffrey Steinberg  
Deputy Chief, Policy Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, Southwest  
Washington, DC 20554

Dear Mr. Steinberg:

This is to request a declaratory ruling on the question of whether an Environmental Assessment is required under 47 CFR 1.1307 when a proposed project will result in wetland impacts; and such impacts have been reviewed, approved and permitted by the U.S. Army Corps of Engineers (Corps) or their designated permitting agency (minor projects are often delegated to state environmental agencies with oversight by the Corps).

The declaratory ruling is for projects where the review of questions under 47 CFR 1.1307 finds no effects other than the aforementioned previously permitted wetland impacts.

The existence of a Corps-approved permit indicates that the agency with expertise in wetlands has completed its analysis and found the wetland effects are compliant with NEPA and with the Clean Water Act, based on minimal extent of impacts and/or mitigation to compensate such impacts. As such, it would appear reasonable to conclude that the project does not involve a significant change in surface features [see 47 CFR 1.1307a(7)].

By the same logic, when the SHPO concludes there is no effect on historic resources, there is similarly no requirement for an EA. It is also noted that NEPA requires federal agencies to minimize paperwork, and the requirement for an EA for previously permitted wetland impacts would be inconsistent with the paperwork reduction requirements.

I have discussed the subject question with Mr. Horst Greczmiel, Associate Director for NEPA Oversight at the Council for Environmental Quality (CEQ) in Washington, D.C. According to NEPA, CEQ has the task of ensuring that federal agencies meet their obligations under the Act. CEQ is also a reference when agencies disagree over environmental assessments. Mr. Greczmiel has made it clear to me that requiring an EA for prior permitted wetland impacts is not an obligation under NEPA. Furthermore, such a requirement conflicts with NEPA because of the paperwork reduction stipulations. I encourage you to discuss this with Mr. Greczmiel at 202-395-0827.

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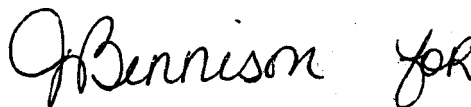
This matter is of importance because of the crucial need for rapid site approval in the complex arena of tower siting, which involves a nonlinear network of approvals from land owners, investors, engineers, local agencies, state and federal agencies, each of which has deadlines.

Your expedited response confirming that a NEPA EA is not required under 47 CFR 1.1307, for prior-permitted wetland impacts, would be greatly appreciated.

Please do not hesitate to call if you have any questions.

With best regards.

Sincerely,  
**Stokes Environmental Associates, Ltd.**

  
Thomas L. Stokes, Jr.

cc: Mr. Don Johnson, FCC Wireless Telecommunications Bureau

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